

I rise in opposition to H.R. 5 and to the rule that cut off any debate on a highly controversial bill with far-reaching consequences. The Majority has refused to permit consideration of any amendments whatsoever, going so far as to deny Democrats the opportunity to offer a substitute to the underlying bill.

There is no doubt that most Americans have a real problem accessing affordable health care. And, it is true that we have some serious problems keeping specialists in practice and keeping trauma centers open. However, in seeking to address these problems, my Republican colleagues have come up with H.R. 5, a bill that caps a medical malpractice victim's recovery.

H.R. 5 is a deplorable bill. It is the most simplistic and useless method for addressing very real problems with our medical community. It is a ridiculous piece of legislation that is akin to trying to put out a forest fire with a squirt gun.

Supposedly, the goal of H.R. 5 is to stabilize medical malpractice insurance rates. But contrary to my colleagues' assertions, placing a cap on victim's recovery will not magically keep medical malpractice insurance rates from rising. It will not keep trauma centers from closing. It will keep specialists practicing medicine.

H.R. 5 only focuses on restricting injured patients' access to justice. H.R. 5 is modeled after California's Medical Injury Compensation Reform Act, known as "MICRA". My Republican colleagues love to sing the praises of MICRA.

However, as a Representative from California, I happen to know a lot about MICRA. MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my state. MICRA was signed into law in 1975, but stability in medical malpractice insurance rates did not occur after MICRA was passed. Between 1975 and 1993, in fact, health care costs in California rose 343%, nearly twice the rate of inflation. Not only that, but the California costs exceeded the national average each year during that period by an average of 9 percent per year.

Any rate stabilization that has occurred in California is not due to caps, but to Proposition 103, which went into effect in 1990. Proposition 103 was an INSURANCE reform initiative that changed California's insurance laws from a so-called "open competition" to a "prior approval" regulatory system. Prop. 103 requires insurers to obtain approval of rate increases. But even with enactment of Proposition 103, rates in California have stayed close to national premium trends.

Medical malpractice insurance rate hikes are cyclical. They tend to be at their highest when insurance companies' investment income is at its lowest. Tort caps have not and do not eliminate this cyclical pattern.

I'm not the only one who has said that tort caps alone will not lower insurance rates. I would like to quote just a few other individuals who have made similar statements:

"Insurers never promised that tort reform would achieve specific savings." □ American Insurance Association

"We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates." □ Sherman Joyce, president of the American Tort Reform Association

"Many tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years." □ Victor Schwartz, general counsel to the American Tort Reform Association

Insurance companies are reluctant to look at any role they may play in the increasing liability insurance rates. Yet, their investment practices have made it nearly impossible for them to balance paid claims with premiums. Capping damages for plaintiffs is only one part of the stabilization equation. In order to bring about true stabilization, we must reform the insurance industry.

H.R. 5, without insurance reform is meaningless. H.R. 5 simply re-injures the legitimate victims of medical malpractice.

Had we been given the opportunity, Democrats would have offered a substitute crafted by Representatives Dingell and Conyers. That substitute takes concrete steps to eliminating frivolous lawsuits. It requires insurance companies to share their savings with doctors and patients. It evaluates the causes of insurance rate increases and proposes solutions. In short, it seeks to deal with the problem of rising medical malpractice insurance rates by addressing all aspects of the problem□ insurance companies, doctors, patients, and the tort system. It would have been the comprehensive and fair way of fighting the real problem. This legislation would have prevented the forest fire before it began.

The Members of this House□ and the general American public□ deserve the opportunity to consider a real proposal to address the medical malpractice insurance rate crisis. I urge a no vote on this Rule. Thank you.